



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/643,894

08/20/2003

Maria E. McCarthy

22915.00

4648

37833

7590

10/05/2005

LITMAN LAW OFFICES, LTD

PO BOX 15035

CRYSTAL CITY STATION

ARLINGTON, VA 22215

EXAMINER

HINZE, LEO T

ART UNIT

PAPER NUMBER

2854

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/643,894

Applicant(s)

MCCARTHY, MARIA E.

Examiner

Leo T. Hinze

Art Unit

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20030820</u> . | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2854

## DETAILED ACTION

### *Claim Objections*

1. Claims 7 and 8 are objected to because of the following informalities:
  - a. Regarding claim 7, there are two periods in the claim. The text after the first period in line 12 appears to be from claim 3. To expedite prosecution, the examiner will disregard all text in claim 7 after the first period in line 12.
  - b. Further regarding claim 7, the term “greater time block” in lines 6-7 lacks proper antecedent basis.
  - c. Regarding claim 8, “said microphone” in line 5 lacks proper antecedent basis.Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Pyrex Programmable Timer (Pyrex).

The Pyrex reference refers to the printout from Amazon.com of a common kitchen timer. The timer is indicated as having been on sale since 26 April 2000.

Art Unit: 2854

Pyrex teaches a method of setting an interval timer with multiple (four digital timers, Features Section) and personalized indicators ("unique signal", Features Section), comprising the steps of: selecting a block of time by means of an alphanumeric screen and control buttons, whereby the time block selected may be in gradients of one minute; selecting a time interval shorter than the greater time block, the time interval being any number of user selected minutes; automatically assigning each of a plurality of distinctive sounds to sequentially triggered time intervals; and generating an audible signal upon completion of each time interval. The user can set four different time intervals, so naturally one interval would be longer than all the others. The timer automatically provides a unique signal for each time interval. The image of the time shows a "MIN" button, which indicates that time may be selected in minute intervals.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pyrex in view of Polydoris et al., US 5,121,368 (Polydoris).

a. Regarding claim 1:

Art Unit: 2854

Pyrex teaches a timer with multiple and personalized audio indicators, comprising: a housing having a base, a front surface, a rear surface, and side surfaces extending between the front surface and the rear surface, the housing defining a cavity, the front surface having an opening communicating with the cavity (see Figure; timer components are obviously contained in a cavity within the housing); first timer circuit means disposed within the cavity defined in the housing for repetitively counting down a first time interval and activating an audio signal each time the first time interval expires (four digital timers, Features Section); second timer circuit means disposed within the cavity defined in the housing for activating the first timer circuit means for a second time interval longer than the first time interval (four digital timers, Features Section; with more than one time interval, one will be longer than another); time selection means for programmably selecting a duration of the first and second time intervals (see buttons in Figure); a memory device having a plurality of sounds electronically stored within (each with a unique signal, Features Section); and audio circuit means for producing any of the electronic sounds stored in the memory device when the timer circuit means activates the audio signal (each with a unique signal, Features Section). Pyrex is silent as to the location of the memory with respect to the other components.

Pyrex does not teach a faceplate having a front surface and rear surface, the faceplate being removably attached over the opening defined in the front surface of the housing; first timer circuit means disposed within the cavity defined in the housing for repetitively counting down a first time interval and activating an audio signal each time the first time interval expires; a memory device attached to the rear surface of the faceplate.

Art Unit: 2854

Polydoris teaches a timer comprising a housing (22, Fig. 11) having a base (32, Fig. 11), a front surface, a rear surface, and side surfaces extending between the front surface and the rear surface (See generally the shape of housing 22, Fig. 11), the housing defining a cavity, the front surface having an opening communicating with the cavity; a faceplate (26, Fig. 11) having a front surface and rear surface, the faceplate being removably attached over the opening defined in the front surface of the housing; first timer circuit means (120, Fig. 1) disposed within the cavity defined in the housing. Polydoris teaches that such a housing is simple to arrange and economical to manufacture (col. 1, ll. 38-39).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Pyrex by replacing the housing of the Pyrex timer with the housing as taught by Polydoris, because Polydoris teaches that such a housing is economical to manufacture, and a person having ordinary skill in the art may recognize further advantages from the protection offered by the sturdy housing of Polydoris, such as long life and reduction of breakage from dropping.

It has been held that mere rearrangement of parts is not sufficient to patentably distinguish an invention over the prior art. See MPEP § 2144 (VI)(C).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to additionally modify Pyrex so that the memory is attached to the faceplate, because a person having ordinary skill in the art could recognize that certain advantages would flow from such an arrangement, such as ease of manufacture or more efficient packaging of components that would lead to a device that is smaller in size and therefore cheaper to ship and stock on store shelves.

Art Unit: 2854

b. Regarding claim 2, the combination of Pyrex and Polydoris teaches all that is claimed as discussed in the rejection of claim 1 above. Pyrex also teaches wherein said first and second timer circuit means include a central processing unit, program memory, a display panel (see Figure), timer control buttons (see Figure), and computer readable program code means stored in the program memory, wherein the code means further comprising: first instruction means for selecting the first time interval; second instruction means for selecting the second time interval; third instruction means for consecutively assigning each of said plurality of stored sounds to sequential first time intervals; and fourth instruction means for requesting a sound to be generated by the audio circuit means upon completion of each time interval. Because Pyrex is capable of storing four separate timing intervals, counting down four separate timing intervals and alerting the end of each with unique sounds, displaying time and the time intervals, and because Pyrex has control buttons and an LCD display screen, Pyrex inherently contains a central processing unit, program memory, and the code required to function as described.

c. Regarding claim 4:

The combination of Pyrex and Polydoris teaches all that is claimed as discussed in the rejection of claim 1 above. Pyrex teaches wherein said memory device has conductive terminals adapted to cooperatively engage said first and second timer circuit means (memory inherently had connectors so that it can communicate electronically with the timer circuit means).

The combination of Pyrex and Polydoris does not teach whereby mounting the faceplate to said housing electrically interconnects said memory device with said first and second timer circuit means,

Art Unit: 2854

whereby the plurality of distinctive sounds stored on the memory device are accessible by said audio circuit means.

It has been held that mere rearrangement of parts is not sufficient to patentably distinguish an invention over the prior art. See MPEP § 2144 (VI)(C).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to additionally modify Pyrex so that the memory is attached to the faceplate, and the timer circuits are separately mounted, because a person having ordinary skill in the art could recognize that certain advantages would flow from such an arrangement, such as ease of manufacture, ease of memory replacement with updates, or more efficient packaging of components that would lead to a device that is smaller in size and therefore cheaper to ship and stock on store shelves.

d. Regarding claim 5, the combination of Pyrex and Polydoris teaches all that is claimed as discussed in the rejection of claim 1 above. Pyrex also teaches a battery means (see Product Description).

e. Regarding claim 6, the combination of Pyrex and Polydoris teaches all that is claimed as discussed in the rejection of claim 5 above. Pyrex also teaches at least one pair of terminals, because battery terminals are inherently present, as a means to extract the power from the battery and transfer it to the components of the device.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pyrex in view of Polydoris as applied to claim 1 above, and further in view of Aizawa, US 4,508,457 (Aizawa).



Art Unit: 2854

The combination of Pyrex and Polydoris teaches all that is claimed as discussed in the rejection of claim 1 above, including a display for displaying the time remaining (see display in Figure of Pyrex).

The combination of Pyrex and Polydoris does not teach a microphone; fifth instruction means for storing audible signals from said microphone and assigning said microphone generated audible signals to a user selected time interval; sixth instruction means for resetting the audible signal to an initial state.

Aizawa teaches an alarm with record and playback circuits (col. 2, ll. 14-16) that can store sounds and play them back when an alarm is reached (alarm counter 4, Fig. 1). Aizawa teaches a microphone (13, Fig. 1) for recording the sounds. Aizawa teaches that such structure and functionality is pleasing to a user who may not like the standard sounds or who may grow tired of hearing them (col. 1, ll. 23-26).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to further modify Pyrex to include a microphone that can be used to store sounds and circuitry to play the sounds when an alarm is reached, because Aizawa teaches that this is pleasing to a user who may not like the standard sounds or who may grow tired of hearing them, and a person having ordinary skill in the art would recognize that an alarm with sounds that please a user may be more likely to alert a user, and therefore more commercially desirable.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pyrex in view of Aizawa.

Art Unit: 2854

Pyrex teaches all that is claimed as discussed in the rejection of claim 7 above, including resetting the timer circuitry (timer must be able to be reset in order to count down the intervals more than one time); and displaying (see display in Figure) the time remaining in the time block and the time remaining in the time interval.

Pyrex does not teach reinitializing the sound indicators to their initial state prior to modification by the use of a microphone.

Aizawa teaches an alarm with record and playback circuits (col. 2, ll. 14-16) that can store sounds and play them back when an alarm is reached (alarm counter 4, Fig. 1). Aizawa teaches a microphone (13, Fig. 1) for recording the sounds. Aizawa teaches that such structure and functionality is pleasing to a user who may not like the standard sounds or who may grow tired of hearing them (col. 1, ll. 23-26).

It would have been obvious to a person having ordinary skill in the art at the time of the invention to modify Pyrex to include a microphone that can be used to store sounds and circuitry to play the sounds when an alarm is reached, because Aizawa teaches that this is pleasing to a user who may not like the standard sounds or who may grow tired of hearing them, and a person having ordinary skill in the art would recognize that an alarm with sounds that please a user may be more likely to alert a user, and therefore more commercially desirable.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pyrex.

Pyrex teaches the steps of: mounting a faceplate (see faceplate in Figure) to a timer adapted to receive the faceplate; selecting a block of time (four time intervals, Product Description) by means of an alphanumeric screen and control buttons (see Figure), whereby the time block selected may be in

Art Unit: 2854

gradients of one minute (minute button, Figure); selecting a time interval shorter than the greater time block, the time interval being any number of user selected minutes (with more than one time interval, one will be greater than the other); generating an audible signal upon completion of each time interval, the audible signal automatically selected from the stored memory device (four unique signals, Product Description); and displaying the time remaining in the time block and the time remaining in the time interval (see display in Figure).

Regarding the limitation "teaching young children the concept of time" in the preamble: the body of the claim sufficiently defines the invention so that the preamble is not necessary to breathe life and meaning into the claim; therefore, the preamble is not considered to further limit the claim. Regarding the term "age appropriate faceplate" in line 3: the examiner considers this limitation to be very broad, and that any faceplate could be considered age appropriate.

Pyrex does not teach a faceplate with integrated sound memory device.

It has been held that mere rearrangement of parts is not sufficient to patentably distinguish an invention over the prior art. See MPEP § 2144 (VI)(C).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Pyrex so that the memory is attached to the faceplate, because a person having ordinary skill in the art could recognize that certain advantages would flow from such an arrangement, such as ease of manufacture or more efficient packaging of components that would lead to a device that is smaller in size and therefore cheaper to ship and stock on store shelves.

Art Unit: 2854

*Conclusion*


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leo T. Hinze whose telephone number is (571) 272-2167. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld can be reached on (571) 272-2168. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Leo T. Hinze  
Patent Examiner  
AU 2854  
30 September 2005

  
ANDREW H. HIRSHFELD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800